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2018 IL App (3d) 150696-U

Order filed June 5, 2018

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2018

THE PEOPLE OF THE STATE)	Appeal from the Circuit Court
OF ILLINOIS,)	of the 14th Judicial Circuit,
)	Whiteside County, Illinois.
Respondent-Appellee,)	
)	Appeal No. 3-15-0696
v.)	Circuit No. 09-CF-550
)	
ERIC L. SMITH,)	
)	Honorable
Petitioner-Appellant.)	Stanley B. Steines,
)	Judge, Presiding.

JUSTICE O'BRIEN delivered the judgment of the court.
Justices Holdridge and Schmidt concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court had subject matter jurisdiction to enter a conviction against the defendant, so the dismissal of his motion to vacate his burglary conviction as void was affirmed.

¶ 2 The defendant appeals from a judgment dismissing his *pro se* motion to vacate his burglary conviction as void.

¶ 11 The defendant, however, pled guilty to burglary. When determining if a factual basis exists for a guilty plea, the trial court has no obligation to ferret out possible defenses. *People v. Bassette*, 391 Ill. App. 3d 453, 457 (2009). To appeal the judgment entered on the guilty plea, the defendant was required to file a motion to withdraw the plea within 30 days of sentencing. Ill. S. Ct. R. 604(d) (eff. July 1, 2006). The defendant in this case never filed a motion to withdraw his plea or a direct appeal. Where a defendant has failed to file a written motion to withdraw his plea of guilty or to reconsider his sentence, the appellate court must dismiss the appeal, with postconviction proceedings the defendant's only recourse. *People v. Flowers*, 208 Ill. 2d 291, 301 (2003).

¶ 12 The defendant has already filed one postconviction petition, though, where this issue was not raised. Thus, his only recourse was a successive petition wherein the defendant demonstrated cause for failing to raise the issue and prejudice resulting from the claimed error. *People v. Jones*, 211 Ill. 2d 140, 148-49 (2004). The defendant, however, did not raise the issue of the elements of his burglary conviction in his successive filing, so he could not raise it for the first time on appeal from the denial of leave to file a successive petition. See *Id.* at 148.

¶ 13 Acknowledging this forfeiture, the defendant argues that his conviction was void for lack of subject matter jurisdiction. See *People v. Thompson*, 2015 IL 118151, ¶ 31 (“A voidness challenge based on a lack of personal or subject matter jurisdiction is not subject to forfeiture or other procedural restraints because a judgment entered by a court without jurisdiction ‘may be challenged in perpetuity.’”). Subject matter jurisdiction refers to a court's power to hear and determine a class of cases. *People v. Castleberry*, 2015 IL 116916, ¶ 12. The defendant cites to caselaw holding that a trial court is without jurisdiction to enter a conviction based upon actions that do not constitute a criminal offense. See *People v. Kayer*, 2013 IL App (4th) 120028, ¶ 9.

Subsequent to *Kayer* though, the Illinois Supreme Court decided *Castleberry*, wherein it abolished the void sentence rule (the rule that a sentence that does not conform to a statutory requirement is void) and held that a judgment can be declared void for lack of subject matter jurisdiction or personal jurisdiction, but there was no "inherent power" idea of jurisdiction.

Castleberry, 2015 IL 116916, ¶ 18.

¶ 14 Circuit courts have jurisdiction over all justiciable matters, except for specific exceptions not applicable here. *Id.* Thus, the circuit court had subject matter jurisdiction to enter a conviction against the defendant. See *People v. Sandoval-Carrillo*, 2016 IL App (2d) 140332, ¶ 21 (the trial court had subject-matter jurisdiction over a felony matter because it had the authority to decide the general class of cases to which it belonged and was presented with a justiciable matter). Any argument that the circuit court acted without inherent authority or power, making its actions without jurisdiction, is untenable after the void sentencing rule was abolished by *Castleberry*.

¶ 15 CONCLUSION

¶ 16 The judgment of the circuit court of Whiteside County is affirmed.

¶ 17 Affirmed.